



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-2015-0030]

Award Management Requirements:

Proposed Circular

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability of proposed circular and request for comments.

SUMMARY: FTA has placed in the docket and on its Web site proposed guidance in the form of proposed FTA Circular, 5010.1E, “Award Management Requirements,” to facilitate implementation of FTA’s assistance programs. The purpose of the proposed circular is to update the current “Grants Management Requirements” circular to reflect various changes in the law, regulations, and FTA’s transition to a new electronic award and management system. The proposed circular provides guidance regarding the management responsibilities accompanying FTA awards of federal assistance through Grants and Cooperative Agreements. By this notice, FTA seeks public comment on the proposed circular.

DATES: Comments must be submitted by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Please submit your comments by only one of the following methods, identifying your submission by DOT Docket Number FTA-2015-0030. All electronic submissions must be made to the U.S. Government electronic site at <http://www.regulations.gov>.

Federal e-Rulemaking Portal: Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.

Mail: Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern time, Monday through Friday, except Federal holidays.

Fax: 202-493-2251.

Instructions: You must include the agency name (Federal Transit Administration) and Docket number (FTA-2015-0030) for this notice at the beginning of each submission of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA received your comments, include a self-addressed stamped postcard. All comments received will be posted without change to www.regulations.gov including any personal information provided and will be available to internet users. You may review DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477) or <http://DocketsInfo.dot.gov>.

Docket: For access to the docket to read background documents and comments received, go to www.regulations.gov at any time or to the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M-30, West Building Ground Floor, Room W12-140, Washington, DC 20590 between 9:00 a.m. and 5:00 p.m. Eastern Standard Time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For program matters, contact Pamela A. Brown, FTA Office of Program Management, at (202) 493-2503, or pamela.brown@dot.gov. For legal matters, contact Linda W. Sorkin, FTA Attorney-Advisor, Office of Chief Counsel, at (202) 366-0959 or linda.sorkin@dot.gov.

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I. Overview

The proposed circular incorporates changes to FTA’s programs resulting from enactment of FTA’s most recent authorizing legislation, the Fixing America’s Surface Transportation (FAST) Act, Public Law 114-94, December 4, 2015, the Moving Ahead for Progress in the 21st Century Act (MAP-21), and the impact of FTA programs funded with federal assistance appropriated or made available for the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Public Law 109-59, August 10, 2005, as amended. In addition, the proposed circular incorporates the promulgation of Department of Transportation (DOT) regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR part 1201, and changes in terms as used in FTA’s new electronic award and management system, the Transit Award and Management

System (TrAMS). The proposed circular reflects these changes, proposes policies, adds information, clarifies FTA's requirements and processes, and restructures FTA Circular 5010.1D, "Grant Management Requirements," for accuracy, clarity, and ease of use.

On December 4, 2015, the FAST Act, Public Law 114-94, was signed into law with an effective date of October 1, 2015, the first day of Fiscal Year (FY) 2016. With certain exceptions, the provisions of the FAST Act will apply to funds FTA obligates in FY 2016 through FY 2020, including funds apportioned in FY 2015 and prior. To the extent that FTA awards additional funding in FY 2016 to support a project originally receiving FTA funding before FY 2016, FAST Act cross-cutting requirements will apply to the new funding. FTA will be developing and issuing guidance on implementation of FAST Act requirements as necessary to accommodate situations that arise.

On December 26, 2014, U.S. DOT adopted the Office of Management and Budget (OMB) regulatory guidance, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," (Uniform Guidance), 2 CFR part 200, now incorporated by reference in U.S. DOT regulations, 2 CFR part 1201. The Uniform Guidance streamlines and adds to the guidance found in the following eight OMB circulars that have been superseded by 2 CFR part 200: OMB Circular A-102, "Grant Awards and Cooperative Agreements with State and Local Governments"; OMB Circular A-110, "Uniform Administrative Requirements for Awards and Other Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations," 2 CFR part 215; OMB Circular A-21, "Cost Principles for Educational Institutions," 2 CFR part 220; OMB Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments," 2 CFR part 225; OMB Circular A-122, "Cost Principles for Non-Profit Organizations," 2 CFR part 230; OMB Circular A-133, "Audits of States, Local

Governments and Non-Profit Organizations’’; and OMB Circular A-50, “Audit Follow-Up,” and OMB Circular A-89, “Federal Domestic Assistance Program Information.” While 2 CFR part 1201 generally adopts most of the Uniform Guidance, part 1201 does contain several DOT-specific provisions.

U.S. DOT regulations, 2 CFR part 1201, apply to an FTA Award and any Amendments thereto that have been signed by an authorized FTA official on or after December 26, 2014. These regulations supersede the former 49 CFR part 18, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” and former 49 CFR part 19, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,” except that Grants and Cooperative Agreements executed before December 26, 2014, continue to be subject to former 49 CFR parts 18 and 19 in effect on the date of such grants or agreements.

In addition to addressing changes to federal law and regulations, the proposed circular reflects terminology changes for consistency with FTA’s prospective new electronic award and management system, TrAMS. The proposed circular also clarifies FTA’s requirements and processes, proposes new FTA policies, and restructures FTA Circular 5010.1D, “Grant Management Requirements.” The proposed circular applies to both Grants and Cooperative Agreements when program-specific requirements are not addressed in an FTA program-specific circular.

This notice provides a section-by-section summary of the proposed circular. The proposed circular itself is not included in this notice; instead, an electronic version may be found on FTA’s Web site, at www.fta.dot.gov, and in the docket, at www.regulations.gov. Paper copies

of the proposed circular may be obtained by contacting FTA's Administrative Services Help Desk at (202) 366-4865. The FTA seeks comment on the proposed circular.

FTA will publish a second notice in the **Federal Register** after the close of the comment period. The second notice will respond to comments received and announce the availability of the final circular. The final circular will supersede FTA Circular 5010.1D.

II. Chapter-by-Chapter Analysis

Apart from changes in terms to accommodate 2 CFR part 1201, 2 CFR part 200, and the introduction of TrAMS, minor changes to headings and names of reports and processes, and structural changes, this analysis discusses proposed substantive changes to FTA Circular 5010.1D. We strongly recommend that stakeholders carefully review the proposed circular in its entirety, particularly those provisions that contain new, added, or expanded information.

A. Chapter I—Introduction and Background

Proposed Chapter I covers general information regarding FTA, FTA's authorizing legislation, how to contact FTA, and Grants.Gov. It also provides definitions and acronyms and updates the information in FTA Circular 5010.1D.

Along with a new list of acronyms and their meanings, most changes in proposed Chapter I are changes to definitions, particularly those needed for consistency with the FAST Act, MAP-21, the Uniform Guidance, and TrAMS.

An example of a new definition resulting from the FAST Act is the definition of "Low or No Emission Vehicle" which means a passenger vehicle used to provide public transportation that the Secretary determines sufficiently reduces energy consumption or harmful emissions, including direct carbon emissions, when compared to a comparable standard vehicle; or a zero emission vehicle used to provide public transportation. A new policy regarding using low or no

emission vehicles when repowering or remanufacturing vehicles to extend their useful life is included in the 5010.1E and this definition will provide clarification for that use.

Another new definition added by MAP-21 and enhanced in the FAST Act, is the definition of “associated transit improvements,” which supersedes “transit enhancements” under the Urbanized Area Formula Program (49 U.S.C. 5307) financed with appropriations or federal assistance made available for fiscal years 2013 and later. The following activities qualify as both associated transit improvements under MAP-21 and transit enhancements under the FAST Act: (1) historic preservation, rehabilitation, and operation of historic public transportation buildings, structures, and facilities (including historic bus and railroad facilities) intended for use in public transportation service; (2) bus shelters; (3) functional landscaping and streetscaping, including benches, trash receptacles, and street lights; (4) pedestrian access and walkways; (5) bicycle access, including bicycle storage shelters and parking facilities and the installation of equipment for transporting bicycles on public transportation vehicles; (6) signage; and (7) enhanced access for persons with disabilities to public transportation. The FAST Act prohibits grants or loans to be used to pay the incremental costs of incorporating art or non-functional landscaping into facilities, including the cost of an artist on the design team. Both the FAST Act and MAP-21 do not treat the following “transit enhancements” that were eligible under SAFETEA-LU as eligible “associated transit improvements” under MAP-21: (1) public art, (2) transit connections to parks within the recipient's transit service area, (3) scenic beautification other than functional landscaping, and (4) tables.

Two examples of new definitions added for consistency with TrAMS include the definition of “Project” and “Award.” “Project” now means public transportation improvement activities eligible for federal assistance in an application to FTA and/or in an FTA Award.

“Award” now means the Scope of Work that FTA has approved when FTA agreed to provide federal assistance, including the requirements of all documents, terms, and conditions incorporated by reference and made part of the Grant Agreement or Cooperative Agreement.

Two examples of definitions FTA has added to explain program concerns are “Remanufactured Vehicles” and “Rolling Stock Repower.” “Remanufactured vehicles” means a previously owned/used vehicle that has undergone or requires substantial structural, mechanical, electrical, and/or cosmetic rebuilding, restoration or updating and that is to be acquired or leased by a new party; a remanufactured vehicle must meet all of the requirements for new bus models (e.g., useful life, bus testing, etc.). “Rolling stock repowering” involves replacing a vehicle’s propulsion system with a propulsion system of a different type (e.g., replacing a diesel engine with an electric battery propulsion system). Rolling stock repowering is permitted for buses that have met at least 40 percent of their useful life; in which case, it must be designed to permit the bus to meet its useful life requirements. Rolling stock repowering also is permitted as part of a rebuild; in which case, it must extend the useful life by at least 4 years.

B. Chapter II—Circular Overview

Proposed Chapter II covers general information regarding the requirements and procedures for FTA programs, particularly when the program-specific circular does not discuss a particular issue.

Proposed Chapter II lists descriptions of new or revised programs under 49 U.S.C. chapter 53, as amended by the FAST Act and MAP-21. FTA’s public Web site <http://www.fta.dot.gov> provides a complete listing of FTA programs and their current FTA circulars. Among the new programs listed are: (1) the Buses and Bus Facilities Formula Program authorized under 49 U.S.C. 5339, (2) the Public Transportation Emergency Relief

Program authorized under 49 U.S.C. 5324, (3) the Public Transportation Safety Program authorized under 49 U.S.C. 5329, (4) the State of Good Repair Formula Program authorized under 49 U.S.C. 5337, and (5) the Transit-Oriented Development Planning Pilot Program authorized under Section 20005(b) of MAP-21. As in the current circular, proposed Chapter II then discusses various federal civil rights requirements, such as those pertaining to the Americans with Disabilities Act (ADA), Title VI of the Civil Rights Act of 1964 (Title VI), Equal Employment Opportunity (EEO) and Disadvantaged Business Enterprise (DBE).

C. Chapter III—Administration of the Award

Proposed Chapter III provides more detail about administrative requirements that accompany an Award to ensure easier compliance with the FAST Act, MAP-21, and the Uniform Guidance. The chapter begins by describing the life cycle of an Award from the application process, reporting requirements, modifications, and closeout.

Among the differences between proposed Chapter III and the current Chapter III are the following:

Proposed Chapter III explains that the purpose of reporting requirements is to ensure proper recipient stewardship of federal assistance and compliance with laws, regulations, and requirements applicable to the Award and its recipients and/or subrecipients.

Proposed Chapter III directs stakeholders to FTA program-specific circulars for information about exceptions to Milestone Progress Reports (MPR) due dates. In limited instances, FTA may grant extensions of report due dates for good cause. For quarterly reporters, an extension may be granted up to the day prior to the next quarter reporting cycle. (For example, a report due on January 30, may receive an extension with a due date no later than March 30. This is necessary to ensure information is captured for the next reporting cycle

beginning on April 1.) Extensions may not be granted for recipients required to report monthly. Annual reporters must report by October 30. Proposed Chapter III asserts FTA's right to require more stringent or specialized reports than reports typically required; and, reports on significant events impacting the Award should be reported to FTA immediately after detection and then reflected in the next MPR. The frequency of reporting based on risk also may be implemented. We are seeking comments on that matter.

Proposed Chapter III indicates that the requirements for Associated Transit Improvement Reports required by MAP-21 will be similar to the requirements for Transit Enhancement Reports required by SAFETEA-LU.

Proposed Chapter III explains that within 30 days, after entering into a contract for any vehicle purchase or when exercising an option or a piggyback on an existing contract, the recipient must submit to FTA the name of the transit vehicle manufacturer (TVM) that is the contractor and the total dollar value of the third party contract. Additionally, the next MPR after the contract is awarded should include the name of the successful bidder.

Proposed Chapter III also states that recipients must submit a quarterly, rather than monthly, project budget and project schedule update for Major Capital projects to be consistent with changes made by MAP-21 .

For greater consistency with the Uniform Guidance, proposed Chapter III explains the criteria for when prior approval for budget revisions will be required.

For construction projects, FTA will require approval when the budget revision results from changes in the scope or the objective of the project or program, the need arises for additional Federal funds to complete the project, or when the desired revision involves specific

costs for which prior written approval requirements may be imposed consistent with applicable OMB cost principles listed in 2 CFR part 200, subpart E—Cost Principles.

For nonconstruction projects, such as projects for equipment, FTA will require approval of the budget revision when the federal share of the Award exceeds the simplified acquisition threshold (\$150,000 as of the date of publication of the proposed circular) and the cumulative amount of the change exceeds 20 percent of the total federal assistance allocated from the current approved Award Budget. A change below these thresholds does not require FTA prior approval, provided it does not alter the scope of work of the Award.

In addition, rolling stock spare ratio requirements will continue to apply when changes are contemplated or undertaken. This chapter also cautions that budget revisions or proposed Award amendments must be consistent with the approved STIP, satisfy NEPA requirements, and be consistent with its earmark, if any, and statutory requirements.

When closeout of an Award is sought, proposed Chapter III requires recipients to confirm that all activities are complete, to indicate whether or not funds will need to be deobligated, and to list the assets acquired or improved that will continue to be subject to the requirements of the accompanying Grant or Cooperative Agreement.

D. Chapter IV—Management of the Award

Proposed Chapter IV includes guidance regarding the management, use, and disposition of FTA assisted assets, including real property such as land and the facilities purchased or constructed thereon, equipment consisting of rolling stock and other items of personal property, and supplies consistent with 2 CFR part 1201 and 2 CFR part 200. It also addresses the design and construction of facilities in light of MAP-21 amendments to 49 U.S.C. chapter 53.

General information regarding real property is consolidated in proposed Section 2, and oversight of real property transactions is addressed in proposed Section 3. Information about equipment and supplies, including rolling stock, is consolidated in proposed Section 4. In connection with appraisals, proposed Section 2 updates NEPA information including information regarding environmental site assessments (ESA), particularly in regard to contaminated property and the estimated cost to remediate contaminated property and contamination discovered during construction. Contaminated property is addressed more fully in Appendix D.

Proposed Section 2 discusses administrative settlements, clarifying that relocation payments are not considered part of an administrative settlement.

Proposed Section 2 adds the following new Special Real Estate Acquisition Program Strategies/Issues including: (1) a new discussion of land exchanges advising that FTA does not have separate processes for these transactions but uses typical appraisal processes, including a reminder that relocation requirements will continue to apply; (2) directs stakeholders interested in joint development to FTA Circular 7050.1 as well as to the discussion in proposed Chapter IV; and (3) adds an extensive discussion of contaminated properties including information regarding ESAs.

Proposed Section 2 adds information about the treatment of real estate acquisition management plans (RAMP) advising that the recipient review it for needed changes, provide information about how real property will be acquired, and provide adequate information about relocation.

Proposed Section 2 discusses property management. Along with the topics addressed in FTA Circular 5010.1D, FTA has added new subsections to clarify FTA policy pertaining to issues FTA staff frequently encounter in administering its awards. These new subsections

discuss such matters as title to real property, use, maintenance, idle facilities and idle capacity, reporting on real property, and non-transit uses of real property, including incidental use, joint development, and shared use. Real property reporting has become more extensive, with a list of subjects to be addressed in the new Appendix I to the proposed circular.

Proposed Section 3 is a separate section addressing FTA management and project oversight of real property but does not change the information in FTA Circular 5010.1D.

Proposed Section 4 addresses issues pertaining to the acquisition, use, management, and disposition of equipment and supplies, including rolling stock.

Consistent with the Uniform Guidance, proposed Section 4 expressly states that title to equipment continues to vest in the recipient, but the equipment must be used for purposes of the project, remain unencumbered unless FTA provided prior approval of the encumbrance, and it must be disposed of in accordance with federal law and/or the Uniform Guidance.

Proposed Section 4 adds the Uniform Guidance prohibition against using federally assisted equipment to provide services in connection with incidental uses for a fee less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment.

Proposed Section 4 clarifies that FTA provides a minimum useful life policy for capital rolling stock, trolleys, ferries, and facilities in this circular. If property is prematurely withdrawn from service, FTA must be notified immediately.

As an effort to streamline and add flexibility, FTA will no longer require its recipients, in the application for federal assistance, to identify a minimum useful life period for equipment (other than rolling stock, trolleys, ferries, and facilities) with an acquisition value greater than \$5,000 procured with federal assistance. However, the recipient should identify useful life in its

equipment records and must continue to complete the physical inventory of the equipment and the results reconciled with equipment records at least once every two years. Proposed Section 4 also adds more information regarding calculations of the federal interest in FTA-assisted property.

FTA is interested in the potential of zero-emission vehicles to provide cleaner, more efficient transit service. FTA is seeking comments on whether the current useful life requirements for buses discourages the consideration of this technology, and if so, what an appropriate useful life requirement for these vehicles should be and/or whether these requirements should change over time as the technology advances.

Proposed Section 4 clarifies FTA's rolling stock rebuilding policies for buses and railcars as follows: (1) with FTA approval, the recipient may rebuild a bus, railcar, or repowered rolling stock before it has met its minimum useful life, and (2) for a bus or railcar that has been rebuilt before the end of its minimum useful life, the minimum extension of the useful life of the rebuilt vehicle is the remaining useful life at the time the vehicle is rebuilt plus four years. A remanufactured vehicle must meet all the requirements for new vehicles.

Proposed Section 4 notes that repowering of rolling stock is permitted for buses that have met at least 40 percent of their useful life in which case it must be designed to permit the bus to meet its useful life requirements or as part of a rebuild in which case it must extend the useful life by at least 4 years. We seek your comments on how repowering should be implemented.

Proposed Section 4 notes that remanufactured vehicles also may be eligible for FTA assistance so long as they meet all of the requirements for new bus models (e.g., useful life, bus testing, *etc.*). We also seek your comments on the standards FTA should adopt in providing federal assistance for remanufactured vehicles.

Proposed Section 4 notes that FTA also will permit agencies to include vehicles that have met their minimum useful life in their contingency fleet if an agency is introducing zero emission vehicles into its fleet. This will ensure reliable public transportation service in the event that these vehicles require more frequent maintenance. These contingency vehicles are not included in the calculation of the recipient's spare ratio. Contingency plans are subject to review during triennial reviews and other FTA oversight reviews. Any rolling stock not supported by a contingency plan will be considered part of the active fleet.

Proposed Section 4 notes that if a recipient has exceeded its spare ratio by a small amount when acquiring vehicles to be used in public transportation service, FTA may be willing to allow a deviation; approval of such a deviation must be obtained in writing.

Proposed Section 4 expands maintenance requirements to include a vehicle maintenance plan and a facility/equipment maintenance plan.

Proposed Section 4 includes additional information regarding leases, including operating and capital leases as updated in the FAST Act, including removable power sources for zero emission vehicles which may now be acquired separately as capital leases. Notably, the FAST Act eliminates FTA's regulatory requirement that FTA may only participate in capital leases that are more cost effective than acquisitions. However, the FAST Act also requires recipients to provide a report to FTA within 3 years after the date on which the recipient enters into rolling stock or related equipment leases, with an evaluation of the overall costs and benefits of leasing rolling stock and a comparison of the expected short-term and long-term maintenance costs of leasing versus buying rolling stock.

Proposed Section 4 includes additional information regarding the disposition or inappropriate use of federally assisted property before the end of that property's useful life,

focusing especially on: (1) the transfer of property no longer needed; (2) dispositions due to casualty, fire, or natural disaster and the use of insurance proceeds recovered as a result of the casualty, fire, or natural disaster; and (3) misused property. To facilitate compliance with federal requirements, proposed Section 4 adds a subsection providing instructions on calculating the “federal interest” in federally assisted property. Proposed Section 4 also consolidates information regarding disposition or use of federally assisted property after the property’s useful life has ended.

Proposed Section 4 expands the information about flood insurance requirements for FTA programs, including requirements for coverage of buildings and contents.

Proposed Section 5 provides information on design and construction of facilities.

Proposed Section 5 sets forth references to major environmental laws and regulations that affect the design and construction of facilities.

Proposed Section 5 clarifies force account work requirements and raises the threshold for when force account justification and plans are required from \$100,000 to \$1,000,000 to reduce the administrative burden on recipients. FTA’s policies require a force account justification and a force account plan when work is \$1,000,000 or greater. When force account work is \$10,000,000 or more, FTA approval of the force account plan is required. Among the justifications FTA recognizes for using force account are: (1) cost savings, (2) exclusive expertise, (3) safety and efficiency of operations, or (4) union agreement.

Proposed Section 5 now removes the requirement for a separate annual value engineering (VE) report. Recipients with major capital projects are still required to submit a VE report to the appropriate FTA Regional Office upon completing the report.

Proposed Section 5 also includes information regarding federal \$1 coin requirements, specifically that equipment and facilities must be capable of accepting and dispensing \$1 coins when coins or currency are required to use that equipment or those facilities and appropriate signs must be in place.

Finally, Section 5 cautions recipients to consult appropriate circulars, DOT guidance, and other official guidance pertaining to compliance with the Americans with Disabilities Act.

E. Chapter V—FTA Oversight

Proposed Chapter V includes guidance regarding the various types of reviews FTA conducts. Reviews are grouped in the following categories: (1) Program Oversight, (2) Safety Oversight, and (3) Project Oversight. Project Management Meetings have been added to the list of reviews.

Program Oversight reviews include comprehensive reviews and specialized reviews. Comprehensive reviews assess a recipient's project management practices as well as compliance with the program and administrative requirements. Specialized reviews are conducted when a recipient is, or at risk of being, out of compliance in a specific area. These specialized reviews include: procurement, financial management, and civil rights reviews.

Safety Oversight reviews are conducted to evaluate and direct changes in a recipient's performance of operations in order to improve the safety of public transportation systems. These reviews include: drug and alcohol program compliance audits, state safety oversight program audits, and FTA voluntary bus transit safety and security reviews.

Project level oversight includes reviews of capital management projects, which includes the assignment of a Project Management Oversight (PMO) contractor and is applied to major capital projects.

A “Note” has been added to advise that as a result of a review, FTA may determine that a recipient requires additional or specialized oversight to address identified or potential programmatic, administrative, or financial concerns. Supplemental oversight also may include the imposition of additional conditions on the award or monitoring requirements.

F. Chapter VI—Financial Management

Proposed Chapter VI includes guidance regarding general matters, internal controls, non-federal share, financial plan, federal principles for determining allowable costs, indirect costs, program income, annual audit, payment procedures, de-obligation of federal assistance, debt service reserve, and the right to terminate. While retaining much of the information found in FTA Circular 5010.1D, substantive proposed changes include the following:

Due to the emphasis on having adequate internal controls under the Uniform Guidance, FTA has added more detailed information to assure that transactions are properly executed, funds are safeguarded, and records are adequately created and maintained.

The discussion of non-federal share now lists some sources of non-federal share, noting that the type of federal assistance awarded determines their eligibility as matching funds.

Proposed Chapter VI adds to the information in FTA Circular 5010.1D pertaining to indirect costs. Proposed Chapter VI now states that OMB assigns cognizant agencies for state and local governments. U.S. DOT is the cognizant agency for determining indirect costs for transit districts. In addition, proposed Chapter VI now provides extensive instructions on how to report indirect costs.

Proposed Chapter VI expands the discussion of how program income is to be used and now includes a chart illustrating those requirements. License fees and royalties derived from

patents and copyrights, as well as advertising and concession fees are now expressly acknowledged to be program income.

Proposed Chapter VI amends the information regarding the annual “Single Audit” to note that the single audit threshold has been changed from \$500,000 to \$750,000, as required by 2 CFR part 200.

Proposed Chapter VI sets forth the information about procedures a recipient must follow and information a recipient is requested to provide in connection with returns of federal assistance to the Federal Government. When requesting federal assistance, proposed Chapter VI reminds recipients to verify the availability of that federal assistance in FTA’s current electronic award and management system.

Proposed Chapter VI provides information regarding requisition payments to include information on the DELPHI e-Invoicing System or DELPHI Markview system.

G. Appendices

Following are changes made to the Appendices of FTA Circular 5010.1D and information about new appendices that have been added to the Proposed Circular:

Proposed Appendix A, “Table of FTA Circulars,” has been updated to reflect the current circulars, as well as list FTA programs associated with the circulars.

Proposed Appendix B, “Federal Financial Report,” has been updated to remove information pertaining to TEAM. Once TrAMS is available, FTA will revise Appendix B to include illustrations from TrAMS.

Proposed Appendix C, “Real Estate Acquisition Management Plan,” which is substantially similar to Appendix C of FTA Circular 5010.1D, has been revised to address the following issues: (1) acquisitions, partial acquisitions, and anticipated number of relocations;

(2) whether FTA needs to concur in the appraisal review; (3) issues arising from administrative settlements; (4) the anticipated extent of displacement, types of displacement, availability of replacement housing and business sites, and other anticipated problems; and (5) the contracting requirements, reporting requirements, statement of policy regarding rental property for extended possession by tenants and owners, and policy regarding rental of property not immediately needed for use to accomplish the purposes of the Award.

Proposed Appendix D, “Guide for Preparing an Appraisal Scope of Work,” has been expanded to provide more guidance on appraising real property, especially real property with adverse environmental conditions. FTA believes this guidance is needed due to the frequency of issues arising when a recipient seeks to acquire real property, especially when adverse environmental conditions are present.

Proposed Appendix E, “Rolling Stock Status Report,” is substantially similar to Appendix E of FTA Circular 5010.1D.

FTA Circular 5010.1D, Appendix F, combined information about indirect cost rate proposals (IDRP) with cost allocation plans (CAP). In 2 CFR part 200, indirect cost rate and cost allocation plan have independent definitions and requirements, Appendix F is now solely dedicated to IDRPs and also provides an example of what constitutes a 20 percent change in the FTA approved IDRP, which will then require approval by FTA for a new indirect cost rate.

Also consistent with new provisions of the Uniform Guidance, Appendix F permits recipients that have never negotiated an indirect cost rate or have not had an indirect cost rate approved by a cognizant agency to choose a “de minimis rate” or an indirect cost rate of 10% of the modified total direct cost.

“Cost Allocation Plans” are now addressed in proposed Appendix G. Among other things, proposed Appendix G defines a CAP consistent with the Uniform Guidance and also contains information pertaining to cost principles appendices of the Uniform Guidance.

Proposed Appendix H [Appendix G of FTA Circular 5010.1D], “Request for Advance or Reimbursement (SF-270)” has been revised to explain how the recipient should use FTA’s DELPHI e-Invoicing of DELPHI Markview system.

New Proposed Appendix I, “Reporting on Real Property,” lists the information about real property that the recipient, at a minimum, must provide to FTA to facilitate compliance with 2 CFR 200.329. Among the information expressly required is the parcel number and the size, expressed as acreage, square or linear units.

New Proposed Appendix J, “Award Amendments and Budget Revision Guidelines,” provides an explanation of how amendments and budget revisions will be treated in both TEAM and TrAMS.

Proposed Appendix K [Appendix H to FTA Circular 5010.1D], “References,” has been updated to add citations to new documents appearing in the circular.

Proposed Appendix L [Appendix I to FTA Circular 5010.1D], “FTA Regional and Metropolitan Contact Information,” updates previous contact information.

In summary, we emphasize that interested stakeholders should review the proposed circular in its entirety carefully, particularly the definitions that have been added or revised, and those provisions that contain new or expanded information.

Issued in Washington, DC.

Therese W. McMillan

Acting Administrator

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